

DWI probation
SB 836 by Caperton)

DIGEST: SB 836 would have specified that a grant of felony or misdemeanor probation would not be considered a final conviction unless probation was revoked. The bill provided that felony or misdemeanor probation for the Driving While Intoxicated offense should not be considered a final conviction for purposes such as drivers license suspension.

GOVERNOR'S
REASONS
FOR VETO:

The original purpose of the bill was to rectify the problems with treating probation in misdemeanor DWI cases as a final conviction resulting in drivers license suspension. However, felony DWI is a more serious concern, and allowing only a "tap on the wrist" for probation in those cases might encourage further drunk driving that endangers innocent persons.

SPONSOR'S
VIEW:

Sen. Caperton's office knew before the veto that the Governor objected to the final version of the bill. The original version only included misdemeanor probation. The bill was meant to reverse an Attorney General's opinion treating probation as a final conviction based upon a 1979 statute which the Legislature did not intend to have that effect. SB 368 will generally take care of problems with misdemeanor DWI probation and automatic drivers license suspension for final conviction, but there are problems in other cases that SB 836 would have corrected.

NOTES:

The Legislature passed, and the Governor signed, SB 368, which states that when probation is granted in a misdemeanor DWI case, a jury can recommend that the offender's drivers license not be suspended. In most cases the offender would have to complete a DWI rehabilitation course as a condition of probation. See the April 29, 1981 HSG Daily Floor Report.

The HSG analysis of SB 836 appeared in the May 28, 1981, Daily Floor Report.